IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATIONNO. 153 OF 2005

State(through the Public Prosecutor)
and another. ... Applicant

versus

Rasiklal M. Gangani and another. ... Respondents

Mr. S. N. Sardessai, Public Prosecutor for the State.

Mr. Rohit Bras de Sa, Advocate for Respondent No.1.

Mr. V. Korgaonkar, Advocate for Respondent No.2.

CORAM : V. M. KANADE, J.

DATE : 3RD AUGUST, 2005.

P.C.:-

The State is challenging the Judgment and Order passed by this Court dated 7-11-2003 in Criminal Miscellaneous Application No. 52 of 2003. It is submitted by the learned Public Prosecutor appearing on behalf of the State that Criminal Miscellaneous Application No. 52 of 2003 was allowed by this Court by Judgment and Order dated 7-11-2003 and the

Criminal Complaint No. 37 of 2003 which was registered under Section 506(ii) of the Indian Penal Code registered by the Panaji Police Station was quashed. He submitted that the said proceedings were quashed primarily on the ground that Section 506(ii) of the Indian Penal Code is a non-cognizable offence and that a complaint could not have been registered by the Panaji Police Station. He submitted that in fact in view of the Notification issued by the Government of Goa the said Section 506(ii) of the Indian Penal Code has now become a cognizable offence. He submitted that this was not brought to the notice of the learned Single Judge and hence the said Order was passed on the said application. He submitted that the said Order passed on 7-11-2003 may be modified. It is not possible to accept the submission made by the learned Public Prosecutor in view of the specific bar created by Section 362 of the Code of Criminal Procedure in entertaining the review proceeding. Section 362 of the Code of Criminal Procedure reads as under:-

> "**Section 362. The Court not to alter Judgment.--** Save as otherwise provided by this Code or by any other law for the time being in force, no Court when it has signed its Judgment or final Order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error".

In view of the specific bar created by Section 362 of the Code of Criminal Procedure it is not possible to review the Order passed on 7-11-2003. The State may avail of the other remedy which is available by filing appropriate proceedings in the Apex Court.

Authenticated copy of the Order be given to the learned Public Prosecutor appearing on behalf of the State.

V. M. KANADE, J.

RD.